

REMARKS/ARGUMENTS

Reconsideration is respectfully requested. Claims 11-25 are pending in the application. Claims 14-16 and 19 are withdrawn from consideration. Amendment to and withdrawal of the claims do not affect inventorship.

Applicant has not dedicated nor abandoned any unclaimed subject matter. Moreover, Applicant has not acquiesced to any rejections or objections made by the Patent Office. Applicant reserves the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications.

In the Specification

The specification has been amended to update the patent application numbers with publication numbers.

Specifically, because U.S. Application No. 09/135,183 was abandoned, the reference thereto has been replaced with reference to U.S. Patent No. 7,090,804, which issued from U.S. Application No. 09/238,351, a continuation of U.S. Application No. 09/135,183.

Claim Amendments

Claims 11-16 have been amended for technical clarity. Claims 11 and 25 have been amended. Support is found, for example, in page 103, first full paragraph (“But, when correlated together, the data_{final} can have a characteristic response that is unique to target analysis signals,”) and second paragraph (“A characteristic curve of the peak information means a positive.”)

Objection to the Specification

The Examiner has objected to the specification because of informalities. Applicants have amended the specification to update the application numbers with publication numbers. Applicants also have amended the specification to correct a typographical error (replacing “strnagency” with “stringency” in the last paragraph on page 71 through 72) and a printing error in the published application (replacing “M” with “AA” in the second paragraph on page 122). No

new matter has been added. Applicants respectfully request the amendments be entered and the objections be withdrawn.

Sequence Rules Compliance

Attached hereto is an Amendment in response to the Office Communication and Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

The amendments are made in compliance with 37 C.F.R. §§ 1.821-825.

Claims Rejections Under 35 USC §112

Claims 11-13, 17, 18 and 20-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 11

Claim 11 is rejected as vague and indefinite. Specifically, the Examiner states:

Since the claim does not indicate how the presence of the characteristics waveform in the output waveform is correlated with the presence of said analytes in the assay complex, it is unclear why presence of the characteristics waveform in the output waveform can be an indication of the presence of said analytes in the assay complex.

Without acquiescing to the propriety of the rejection and for the sake of expedient prosecution, claim 11 has been amended to recite: "the input waveform eliciting a response of characteristic waveform that is unique to target analyte signals from the electrode indicative of electron transfer between the electron transfer moiety and the electrode."

Applicants submit the amendment provides the step or information requested by the Examiner in that the claims require a response that is unique to a target analyte signal. Thus the presence of such response indicates the presence of the target analyte in the

assay complex. Accordingly, Applicants submit that amendment obviates the rejection and respectfully request the rejection be withdrawn.

Claim 12 or 13

Claims 12 or 13 are rejected because there is insufficient antecedent basis for the limitation “the act” in claim 11. Claims 11 – 13 have been amended to recite “the step(s) of.” Applicants respectfully submit the amendments obviate the rejection and respectfully request the rejections be withdrawn.

Claim 25

Claim 25 is rejected as vague and indefinite. Specifically, the Examiner states:

Since [the] claim does not indicate how electron transfer between the electron transfer moiety and the electrode is correlated with the presence of said analytes in the assay complex, it is unclear why electron transfer between the electron transfer moiety and the electrode can be an indication of the presence of said analytes in the assay complex.

Without acquiescing to the propriety of the rejection and for the sake of expedient prosecution, claim 25 has been amended to recite: “receiving an output waveform that is unique to target analyte signals from the electrode, responsive to the input waveform.”

As noted for claim 11 above, Applicants submit the amendment obviates the rejection and respectfully request the rejection be withdrawn.

Claim 11 or 25

Claims 11 and 25 are rejected as vague and indefinite. Specifically, the Examiner states:

Since the claim does not indicate how difference between the output waveform of an array complex in the presence of a target analyte and the output waveform of an array complex in the absence of a target analyte, it is unclear how analyzing the output waveform of an array complex in the presence of a target can be used as an indication of the presence of a target analyte.

Application No.: 10/714,489
Filed: November 14, 2003

Without acquiescing to the propriety of the rejection and for the sake of expedient prosecution Applicants have amended claims 11 and 25.

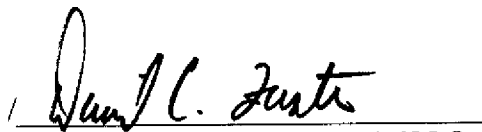
As noted above, the amended claims require a response that is unique to a target analyte signal. Thus the presence of such response indicates the presence of the target analyte in the assay complex. Applicants submit the amendment obviates the rejection and respectfully request the rejection be withdrawn.

CONCLUSION

In view of the foregoing amendments and arguments, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned attorney, Tao Huang, at 415-442-1302.

Respectfully submitted,



David C. Foster, Reg. No. 44,685 for
Robin M. Silva, Reg. No. 38,304

Customer No. 67374

MORGAN, LEWIS & BOCKIUS, LLP
One Market, Spear Street Tower
San Francisco, California 94105
Telephone: 415.442.1000
Facsimile: 415.442.1001
e-mail: thuang@morganlewis.com